UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

| ENTROPIC | COM | MUNICA | TIONS. | LLC. |
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Plaintiff

v.

CHARTER COMMUNICATIONS, INC.,

Defendant.

Civil Action No. 2:22-cv-00125-JRG

JURY TRIAL DEMANDED

DEFENDANT CHARTER COMMUNICATIONS, INC.'S SUR-REPLY IN FURTHER OPPOSITION TO PLAINTIFF'S MOTION TO STRIKE THE EXPERT REPORT OF DAVID O. TAYLOR

Defendant Charter Communications, Inc. ("Charter") submits this sur-reply in further opposition to Entropic Communications LLC's ("Entropic") motion for leave to strike the expert report of David O. Taylor. *See* Dkts. 141, 144, and 151. The motion should be denied.

I. INTRODUCTION

Professor Taylor will opine on questions of fact relating to Charter's licensing defenses based on his extensive experience in the field. Contrary to Entropic's argument, Charter has not narrowed what Professor Taylor will opine on and has not that his opinions regarding non-infringing alternatives should be struck.

First, Entropic argued in its opening brief that Professor Taylor's Expert Report contains legal conclusions. (Dkt. 141 at 3). In opposition, Charter explained that Professor Taylor will not opine on the law. (Dkt. 144 at 2). This did not narrow the scope of Professor Taylor's testimony as his report explicitly states:

and

(Dkt. 141, Ex. A. at ¶ 29). Second, Charter's opposition explains why Professor

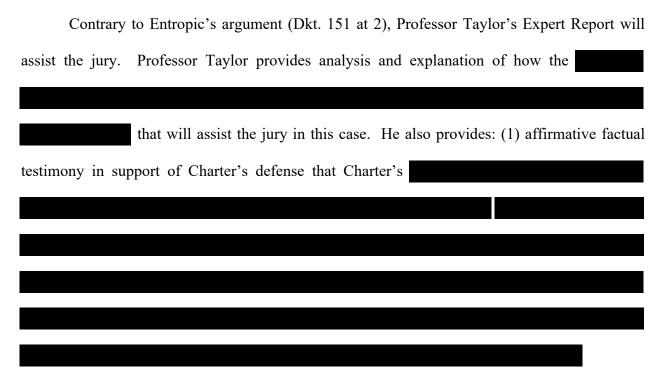
Because Professor Taylor will provide affirmative factual testimony as an expert in intellectual property transactions and will not opine on any conclusion of law, the Court should deny Entropic's motion to strike his report.

Taylor's analysis of non-infringing alternatives is admissible and that Charter has not conceded

that they should be struck. (Dkt. 144 at 4–5, 7).

II. ARGUMENT

A. Professor Taylor's Expert Report Will Assist The Jury



i. Professor Taylor Provides Analysis Regarding Charter's License Defense

As stated in Charter's opposition, Professor Taylor provides analysis regarding Charter's license defense that is admissible. (*See* Dkt. 144 at 3). In his report, Professor Taylor goes through an analysis of which of the Patents-in-Suit are subject to

. (*See* Dkt. 141, Ex. A at ¶¶ 117, 120–122, 127, 114–119; 125–131).

Similarly, regarding Charter's defense that Charter's use of the Accused Cable Modem

| Products, Accused Set Top Products, and Accused Services are covered by an |
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| , Professor Taylor analyzes how |
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| . (See Dkt. 141, Ex. A at ¶¶ 151–179). |
| ii. Professor Taylor Provides Analysis Of Non-infringing Alternatives |
| Professor Taylor's Expert Report provides analysis of non-infringing alternatives. He |
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| explains how |
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| He further explains how |
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| were available |
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| to Charter as a non-infringing alternative. (See id. at ¶¶ 180–208). |
| B. There Are Disputed Factual Issues |
| Entropic's argument that it |
| |
| misses the point about the facts that Professor will opine |
| on. (Dkt. 151 at 5). Entropic believes that the only issues are whether the |
| ." (<i>Id</i> . at 4– |
| 5). As laid out in his report, Professor Taylor offers analysis regarding the operation of the |

III. CONCLUSION

Charter respectfully asks this Court to deny Entropic's motion to strike the expert report of David O. Taylor.

Dated: August 28, 2023 Respectfully submitted,

/s/ Elizabeth Long

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Attorneys for Defendant Charter Communications, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on all counsel of record via email and the Court's ECF system on August 28, 2023.

/s/ Elizabeth Long
Elizabeth Long